



Maine Human Rights Commission

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COMMISSION MEETING MINUTES

19 Union Street ~ Augusta, Maine

October 6, 2014

Commission Chair Arnold Clark called the October 6th Commission meeting to order at 8:29 a.m. Present were Commissioners Arnold Clark, John Norman, Deborah Whitworth, and A. Mavourneen Thompson.

AGENDA

Commissioner Clark called for adoption of the Agenda and Consent Agenda. Commissioner Whitworth moved, seconded by Commissioner Thompson, to adopt the agenda as amended. 4 in favor | 0 opposed.

Commissioner Whitworth moved, seconded by Commission Thompson, to withdraw motion to accept the agenda and Consent Agenda. 4 in favor | 0 opposed.

Executive Director Amy Sneirson reviewed a request from Complainants in the following cases that their requests to withdraw their complaints in the cases be granted, thereby removing the cases from the Agenda:

H14-0182: Robert Chandler & Christine Chandler (Portland) v. Ricker Park Condo. Ass'n (Portland)

H14-0183: Robert Chandler & Christine Chandler (Portland) v. Dan Durkin (Kennebunk)

H14-0184: Robert Chandler & Christine Chandler (Portland) v. R & E Associates, Inc. (Kennebunk)

Executive Director Amy Sneirson presented that this request was made after an investigator report was written. Commissioner Thompson moved, seconded by Commissioner Whitworth, to deny Complainants' request to withdraw the cases from the afternoon agenda. 4 in favor | 0 opposed.

Commissioner Thompson moved, seconded by Commissioner Whitworth, to adopt the Agenda as Amended and accept the Investigator's recommendations in each of the cases on the Consent Agenda. 4 in favor | 0 opposed (see detailed listing on page 6).

MINUTES

Commissioner Thompson moved, seconded by Commissioner Whitworth, to adopt the August 11, 2014 Commission Meeting Minutes. 4 in favor | 0 opposed.

QUARTERLY PROGRAM REVIEW

- Inventory Status Report & Resolutions: There were 586 open cases at the end of September. The Commission closed 115 cases during the preceding quarter with settlements resulting in over \$250,000 to complainants.
- Training/Education: Commissioners reviewed the quarterly report indicating that staff presented at 2 training sessions and attended 2 training sessions.
- Litigation - Commissioners agreed to move this item to another part of the agenda when the Commission could go into Executive Session.

- Financial: Commissioners reviewed the quarterly financial report and it was placed in the file.

Executive Director Amy Sneirson requested the remaining business be taken after the morning cases are heard on the agenda.

CASES VOTED ON 8:45 A.M.:

PA12-0418: Manley Grant (Sanford) v. Wal-Mart (Scarborough). Attorney Steven Melnick restated the position of the Respondent, including a request that one portion of the case be remanded for further investigation. Kristin Aiello restated the position of the Complainant. Chief Investigator Victoria Ternig (for Investigator Robert Beauchesne) restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Complainant Manley Grant was unlawfully discriminated against by Respondent Wal-Mart on the basis of physical disability with regard to purchasing a television. 4 in favor | 0 opposed. Commissioner Thompson moved, seconded by Commissioner Norman, to find reasonable grounds to believe that the Complainant Manley Grant was unlawfully discriminated against by Respondent Wal-Mart on the basis of physical disability when he was denied a reasonable modification/auxiliary aid for communication. 2 in favor | 2 opposed (Clark and Whitworth opposed); the finding was no reasonable grounds. Commissioner Thompson moved, seconded by Commissioner Norman, to reconsider the “no reasonable grounds” vote finding. 4 in favor | 0 opposed. Commissioner Clark moved, seconded by Commissioner Whitworth, to send the reasonable modification/auxiliary aid portion of the complaint back for further investigation. 4 in favor | 0 opposed.

E12-0511: Carl Pascal (Freeport) v. L.L. Bean, Inc. (Freeport). Carl Pascal restated his position as the Complainant. Attorney Peter Lowe restated the position of the Respondent. Chief Investigator Victoria Ternig restated the facts of the Case. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe Respondent L. L. Bean discriminated against Complainant Carl R. Pascal on the basis of age. 4 in favor | 0 opposed.

E12-0528: Angela Severy (Chelsea) v. Correct Care Solutions (Nashville, TN). Angela Severy restated her position as the Complainant. Attorney Susan Gritton restated the position of the Respondent. Chief Investigator Victoria Ternig restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondent Correct Care Solutions denied Complainant Angela Severy a reasonable accommodation in violation of the Maine Human Rights Act. 4 in favor | 0 opposed. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Correct Care Solutions discriminated against Complainant Angela Severy on the basis of her disability in violation of the Maine Human Rights Act. 4 in favor | 0 opposed. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondent Correct Care Solutions retaliated against Complainant Angela Severy because she made a request for reasonable accommodations for a disability in violation of the Maine Human Rights Act. 4 in favor | 0 opposed.

E13-0283: Frederic McCollor (Winslow) v. State of Maine, Department of Administrative & Financial Services, Office of Information Technology (Augusta). Frederic McCollor restated his position as the Complainant. Assistant Attorney General Susan Herman restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Thompson moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Respondent State of Maine, Department of Administrative and Financial Services, Office of Information Technology retaliated against Complainant Frederic John McCollor for engaging in protected whistleblower activity. 4 in favor | 0 opposed.

PA13-0292: Paul McDonough (South Portland) v. City of Portland

PA13-0293: Randall Chasse (Scarborough) v. City of Portland (Portland).

Attorney David Turesky restated the position of the Complainants. Attorney Danielle West-Chuta restated the position of the Respondent. Chief Investigator Victoria Ternig restated the facts of the cases. Commissioner Thompson moved to find reasonable grounds to believe that that Complainant Paul M. McDonough was subjected to unlawful disability discriminated in public accommodations due to his race, color or national origin by Respondent City of Portland; the motion was not seconded, and failed. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe Complainant Paul M. McDonough was subjected to unlawful discrimination in public accommodations due to his race, color or national origin by Respondent City of Portland. 3 in favor | 1 opposed (Thompson opposed). Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe Complainant Randall Chasse was subjected to unlawful discrimination in public accommodations due to his race, color or national origin by Respondent City of Portland. 3 in favor | 1 opposed (Thompson opposed).

Commissioner Clark called for a 10-minute recess.

E14-0039: Michael Strout (Hartland) v. Community Health & Counseling Services (Bangor). Michael Strout restated his position as the Complainant. Attorney Anne Marie Storey restated the position of the Respondent. Investigator Michele Dion restated the facts of the case. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Respondent Community Health and Counseling Services retaliated against Complainant Michael Strout for engaging in protected activity under the WPA or the MHRA. 4 in favor | 0 opposed.

E14-0117: Donald Burns (Parsonsfield) v. City of Portland (Portland). Donald Burns restated his position as the Complainant. Attorney Danielle West-Chuta restated the position of the Respondent. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe the Respondent City of Portland discriminated against Complainant Donald Burns on the basis of age. 4 in favor | 0 opposed.

Commissioner Clark called for a 5-minute break before reconvening the afternoon session at 12:15.

AFTERNOON SESSION

H14-0182: Robert Chandler & Christine Chandler (Portland) v. Ricker Park Condo. Ass'n (Portland)

H14-0183: Robert Chandler & Christine Chandler (Portland) v. Dan Durkin (Kennebunk)

H14-0184: Robert Chandler & Christine Chandler (Portland) v. R & E Associates, Inc. (Kennebunk)

Complainants were not present. Commissioner Whitworth moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Ricker Park Condominium Association, Dan Durkin, and/or R & E Associates, Inc. discriminated against Robert and Christine Chandler on the basis of disability by subjecting them to less favorable terms and conditions of housing due to Mr. Chandler's disability or his service animal. 4 in favor | 0 opposed.

H14-0231: Clifford Roy & Jessica Lagrange (Lewiston) v. Arthur Chamberlain (Lewiston)

H14-0232: Clifford Roy & Jessica Lagrange (Lewiston) v. Sue Croteau (Auburn)

H14-0233: Clifford Roy & Jessica Lagrange (Lewiston) v Claudette Ferland (Auburn)

Complainants were not present. Commissioner Whitworth moved, seconded by Commissioner Norman, to find no reasonable grounds to believe that Arthur Chamberlain, Sue Croteau, and/or Claudette Ferland discriminated against Jessica LaGrange and Clifford Roy on the basis of disability, national origin, and religion by subjecting them to a hostile housing environment and no reasonable grounds to believe that Arthur Chamberlain retaliated against Jessica LaGrange and Clifford Roy by serving them with a Notice to Quit. 4 in favor | 0 opposed.

H14-0239: Mary Hafford, Stanley Wade, & Harley Hafford (Augusta) v. Weston Associates & Linda Buzzard (Augusta)

H14-0240: Mary Hafford, Stanley Wade, & Harley Hafford (Augusta) v. Greentree Apartments II Limited Partnership (Boston)

Attorney David VanBaars restated the position of the Respondents. Attorney Patricia Ender restated the position of the Complainants. Chief Investigator Ternig restated the facts of the cases. Commissioner Norman moved, seconded by Commissioner Whitworth, to find no reasonable grounds to find to believe that Respondents Greentree Apartments II Limited Partnership and Weston Associates/Laura Buzzard discriminated against Complainants Mary Hafford, Harley Hafford, and Stanley Wade on the basis of Mary Hafford's disability in violation of the Maine Human Rights Act. 4 in favor | 0 opposed. Commissioner Norman moved, seconded by Commissioner Whitworth, to find no reasonable grounds to believe that Greentree Apartments II Limited Partnership and Weston Associates/Laura Buzzard denied Complainant Mary Hafford the reasonable accommodation of a service animal. 4 in favor | 0 opposed. Commissioner Norman moved, seconded by Commissioner Thompson, to find no reasonable grounds to believe that Respondents Greentree Apartments II Limited Partnership and Weston Associates/Laura Buzzard made an illegal inquiry into Mary Hafford's disability as it related to her need for a service animal. 4 in favor | 0 opposed.

EXECUTIVE SESSION:

At 12:59 p.m. Commissioner Thompson moved, seconded by Commissioner Norman, to move into executive session to discuss litigation with Commission Counsel pursuant 1 M.R.S. §405(6)(E). 4 in favor | 0 opposed.

At approximately 1:25 p.m. Commissioner Thompson moved, seconded by Commissioner Whitworth, to come out of executive session. 4 in favor | 0 opposed.

LITIGATION:

Commissioner Thompson moved, seconded by Commissioner Arnold Clark, to file an *amicus curiae* brief regarding interpretation of the Whistleblowers' Protection Act in the federal court litigation of the "no reasonable grounds" case E11-0481: Harrison v. Granite Bay Care. 4 in favor | 0 opposed.

Commissioner Clark moved, seconded by Commissioner Thompson, to approve the conciliation agreement in E11-0651: Agnes Farnsworth v. Kennebec Valley Community Action Program. 2 in favor | 1 Opposed (Whitworth) | 1 Abstained (Norman).

ADMINISTRATION

Personnel Report: Executive Director Amy Sneirson reported no significant personnel changes, indicating new investigator Alice Neal is present at the meeting.

COMPLIANCE

Commissioners reviewed the compliance report showing no successful conciliations, and no unsuccessful conciliations, and three conciliations in progress. It was placed on file.

INVESTIGATION

New Charges: Commission staff opened 75 new cases in August and 63 in September.

Administrative Dismissals: The Executive Director administratively dismissed 10 cases in August and 14 cases in September.

Pre-determination Settlements: Since August 1, 2014, 11 cases resulted in settlements with total monetary relief in excess of \$100,00 for complainants.

NEW BUSINESS

Executive Director Amy Sneirson reported that the Commission had met the requirements of its fiscal year 2014 worksharing agreement with the EEOC, including an upward modification on cases closed. Executive Director Sneirson also reported that the EEOC Region of which we are a part is coming to Portland for its regional conference in November, and invited Commissioners to attend.

Executive Director Amy Sneirson distributed copies of the Commission's 2014 Annual Report to the State of Maine, which is completed with the exception of litigation data and will soon be available on our website.

Executive Director Amy Sneirson informed the Commissioners that our amendments to Chapter 2 (mediation fees) and Chapter 3 (rewritten employment regulations) are in effect as of September 24, 2014. Executive Director Sneirson discussed with Commissioners holding discussion sessions with them to review and clarify any questions about the new regulations.

ADJOURNMENT:

There being no further business to come before the Commission, Commissioner Norman moved, seconded by Commission Chair Clark, to adjourn the meeting at 1:37 PM. 4 in favor | 0 opposed.

The consent agenda is a listing of cases scheduled on the Commission's meeting agenda in which there was no written disagreement to the Investigator's recommendation. Commissioners considered these cases without oral argument by the parties.

CONSENT AGENDA

E12-0390-A:	Sean Sweeney (Bangor) v. United Parcel Service of America, Inc. (Brewer)	NRG
E12-0390-B:	Sean Sweeney (Bangor) v. United Parcel Service of America, Inc. (Brewer)	
E12-0403:	Eyidi Ambila (Freeport) v. Consolidated Container Company, LP (Portland)	RG/NRG
E12-0450:	Tammie Terrison (Cumberland) v. Robert W. Boyd AMVETS Post # 2 (Yarmouth)	NRG
E12-0479:	Jason Michaud (Westbrook) v. Eurest Dining, Inc. (Wayne, PA)	NRG
E12-0631:	Nur Haji (South Portland) v. Fairchild Semiconductor Corporation (South Portland)	NRG
E13-0037:	JanWillem A. Musters (Portland) v. Regional School District #14 (Windham)	NRG
E13-0113:	Lory Langley (Hermon) v. Bangor Housing Authority (Bangor)	NRG
H13-0257:	Bridget James (Waterville) v. John & Shari Manning (West Gardiner)	NRG
PA13-0337:	John Wray (Portland) v. Preble Street (Portland)	NRG
E13-0353:	Aaron Rocray (Sanford) v. Hussey Seating Company (North Berwick)	NRG
E13-0400:	Amber Love (Indian Island) v. River City Commercial Cleaning, Inc. (Bangor)	NRG
E14-0051:	Sheryl Harrison (Rockland) v. Lord Camden Inn, Inc. (Camden)	NRG
H14-0128:	Richard Thompson (Eagle Lake) v. Eagle Lake Development Corp. (Eagle Lake)	NRG
H14-0129:	Jeremiah Young (Saco) v. Volunteers of America Northern New England, Inc. (Brunswick)	NRG
H14-0130:	Jeremiah Young (Saco) v. Brackett Street House (Portland)	
H14-0131:	Lance Taylor (Portland) v. Loring House (Portland)	NRG
H14-0132:	Lance Taylor (Portland) v. Caroline Adams (Portland)	
H14-0133:	Lance Taylor (Portland) v. City Hospital Housing Association (Portland)	
H14-0174:	Lance Taylor (Portland) v. Avesta Housing (Portland)	NRG
H14-0175:	Lance Taylor (Portland) v. Leah Osberg (Portland)	
H14-0176:	Lance Taylor (Portland) v. Travis Heynen (Portland)	
H14-0219:	Patti McAllister (East Millinocket) v. Silverwood Court Associates (Lewiston)	NRG
H14-0222:	Patti McAllister (East Millinocket) v. Propsys, Inc. (Lewiston)	
H14-0220:	Marie Pineo (Yarmouth) v. Taymil Partners LLC d/b/a Yarmouth Pointe (Bedford, N.H.)	NRG
H14-0221:	Marie Pineo (Yarmouth) v. Maine State Housing Authority (Augusta)	NRG
H14-0234:	Gerald Cheers (Newburgh, NY) v. Orion UME, LLC d/b/a Orchard Trails Apt. (Boston, MA)	NRG
H14-0235:	Gerald Cheers (Newburgh, NY) v. Erin Kane (Orono)	
H14-0236:	Gerald Cheers (Newburgh, NY) v. Julie Kenney (Orono)	
H14-0249:	Vickie White (Madison) v. Cornerstone Property Management (Skowhegan)	NRG/RG
H14-0250:	Vickie White (Madison) v. Cindy Beckner (Skowhegan)	